

revised cost studies were established.

Shortly after BellSouth filed its testimony and revised cost studies in support of its amended tariff on July 11, 1997, the Commissioners directed, in Order No. U-22252,<sup>12</sup> issued on July 28, 1997, that the Costing Docket be completed within sufficient time to permit the LPSC to consider the matter at its October 1997 Open Session. At a status conference held on July 31, 1997, the parties established the remainder of the procedural schedule, to ensure readiness for the LPSC's October 1997 Open Session. The procedural schedule provided the opportunity for discovery, the filing of revised cost studies by AT&T and MCI, tutorials by BellSouth, AT&T, and MCI regarding their cost studies, the filing of testimony by the intervenors concerning the cost studies, and the filing of rebuttal testimony by BellSouth concerning its cost studies. Eight days in September 1997 were set aside for hearing, after which the procedural schedule called for the filing of testimony by the LPSC Staff and a final day of hearing, on September 24, 1997, to receive Staff testimony and allow for cross-examination by all other parties regarding that testimony.

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<sup>12</sup>Order U-22252 was issued in Docket U-22252, *Louisiana Public Service Commission, Ex Parte. In re: Consideration and review of BellSouth's preapplication compliance with Section 271 of the Telecommunications Act of 1996, including, but not limited to, the fourteen requirements set forth in Section 271(c)(2)(B) in order to verify compliance with Section 271 and provide a recommendation to the Federal Communications Commission regarding BellSouth Telecommunication, Inc.'s application to provide interLATA services originating in-region.*

The scope of Docket U-22252 additionally extended to consideration by the Louisiana Public Service Commission, pursuant to Section 252(f) of the Telecommunications Act of 1996, of BellSouth Telecommunications, Inc.'s "Statement of Generally Available Terms and Conditions for Interconnections, Unbundling and Resale offered by BellSouth Telecommunications, Inc. in Louisiana," filed in the proceeding on May 19, 1997 (the "SGAT").

During the first eight days of hearing, BellSouth, AT&T, MCI, ACSI, WorldCom, and Cox presented a total of 34 witnesses. The sole witness testifying at the final day of hearing was LPSC consultant, Ms. Kimberly Dismukes, whom the LPSC retained in the Costing Docket. All parties were permitted to file post-hearing briefs. Following hearing and briefing by the parties, the Administrative Law Judge presiding over the Costing Docket issued her Final Recommendation on October 17, 1997.

The Act, at Section 252(d)(1), states that determinations by a State Commission of just and reasonable rates for interconnection and UNEs "shall be based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and nondiscriminatory, and may include a reasonable profit."<sup>13</sup>

The LPSC established standards for interconnection and UNE cost studies in Section 901.C.1 of its Competition Regulations, which provides:

C. Physical Interconnection for purposes of utilizing unbundled network components of ILEC networks:

1. Physical interconnect charges between and among TSPs shall be tariffed and based on cost information. The cost information derived from both TSLRIC and LRIC studies shall be provided to the Commission. This information will be used by the Commission to determine a reasonable tariffed rate. There is no mandate that interconnection services be provided by the ILEC to TSPs at its TSLRIC or LRIC of providing such services. As an interim measure, until such cost studies are completed and a decision

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<sup>13</sup> In *Iowa Utilities Board v. FCC*, 120 F.3d 753 (8th Cir. 1997), the United States Court of Appeals, Eighth Circuit determined that pursuant to Section 252(d) of the Act, Congress gave the State Commissions exclusive jurisdiction to set the rates of interconnection and UNEs of the ILECs according to the standards set forth by Congress in the Act.

rendered thereon by the Commission in Docket No. U-22022, consolidated with Docket No. U-22093, or other pertinent Commission proceeding, interim rates for unbundled network elements are hereby established as listed on attached Appendix "D." At such time as a final order issues in Docket No. U-22022, consolidated with Docket No. U-22093, rates will be re-calibrated accordingly.

The LPSC then cites a methodology to determine long run incremental costs developed by the Michigan Public Service Commission.<sup>14</sup>

LPSC consultant, Ms. Kimberly Dismukes, testified that the purpose of her analysis in the Costing Docket was to evaluate BellSouth's cost studies to provide the LPSC with alternative TSLRIC/TELRIC cost estimates. Ms. Dismukes testified that this included evaluating BellSouth's studies to ensure compliance with the Act and the LPSC's Competition Regulations.<sup>15</sup>

Ms. Dismukes explained in her testimony that the rates adopted by the LPSC in this Costing Docket should comply with the nine costing principles adopted by the Michigan Commission. These principles are:

- 1) Long-run implies a period long enough that all costs are variable;
- 2) Cost causation is a key concept in incremental costing;
- 3) The increment being studied should be the entire quantity of the service provided, not some small increase in demand;
- 4) Any function necessary to produce a service must have an associated cost;
- 5) Common overheads are not part of a long run incremental cost study. Recovery of those costs is a pricing issue;
- 6) Technology used in a long run incremental cost study should be the least-cost most efficient technology that is currently available for purchase. This assumes existing

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<sup>14</sup> Section 901.C.2, note 5 of the LPSC Regulations, Re: A Methodology to Determine Long Run Incremental Cost, 156 PUR 4th, at page 1, Michigan Public Service Commission, Case No. U-10620, September 8, 1994.

<sup>15</sup> Pre-filed Testimony of Kimberly Dismukes, at page 2, lines 6 - 10, and at page 6, lines 7 - 15. (September 22, 1997).

- location of structural facilities, but allows for replacement with the most efficient, least-cost technology;
- 7) Costs should be forward-looking, i.e., they should not reflect the company's embedded costs;
  - 8) Cost studies, at a minimum, should be performed for the total output of specific services and preferably at the level of basic network functions from which services are derived;
  - 9) The same long-run incremental cost methodology should apply to all service, new and existing, regulated and non-regulated, competitive and non-competitive.<sup>16</sup>

Based on these guidelines and principles, Ms. Dismukes developed costs using the TSLRIC methodology adopted by the LPSC allowing for the recovery of shared and common costs (the TELRIC methodology). Ms. Dismukes recommended that the LPSC set the prices for UNEs and interconnection using the costs reflected on her revised Exhibits KHD-9 and KHD-10.<sup>17</sup>

Revised Exhibit KHD-9 presents Ms. Dismukes' recommendations for recurring costs using BellSouth's cost model. Ms. Dismukes recommended a cost for an unbundled 2-wire voice grade loop of \$19.35. BellSouth's requested \$27.15 for the same element. All elements produced by BellSouth's cost studies with Ms. Dismukes' recommended changes to the studies are set forth on revised Exhibit KHD-9. For the port, Ms. Dismukes recommended a cost of \$2.20. BellSouth requested a cost of \$2.61.

Ms. Dismukes' recommended nonrecurring charges and disconnect charges are shown on revised Exhibit KHD-10, using BellSouth's model. Ms. Dismukes recommended that the disconnect charges be removed from the nonrecurring charges and collected at the time of

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<sup>16</sup> Pre-filed testimony of Kimberly Dismukes, at pages 7 & 8.

<sup>17</sup> These revised Exhibits are part of Ms. Dismukes' pre-filed testimony filed as part of the Costing Docket as LPSC Exhibit No. 2, and is included in BellSouth's 271 Application to the FCC.

disconnection. With respect to the loop and the port, Ms. Dismukes' recommendations reflect the cost of these elements assuming the loop and the port are not a combined offering.

The Costing Docket came before the LPSC at its October 22, 1997 Open Session for a vote. AT&T requested that the LPSC delay ruling on the Administrative Law Judge's Final Recommendation until the LPSC's November Open Session. After hearing oral argument from AT&T, BellSouth and the Staff, AT&T's request did not receive a motion by any Commissioner.

After hearing oral argument from AT&T, BellSouth, MCI and Staff, the LPSC voted to reject the Final Recommendation of the Administrative Law Judge dated October 17, 1997. By this same vote, based on the rationale of LPSC consultant Kimberly Dismukes, as set forth in her testimony pre-filed September 22, 1997, and her testimony at hearing on September 24, 1997, the LPSC adopted the "Stand Alone" cost-based rates presented by Ms. Dismukes in her revised Exhibits KHD-9 and KHD-10. Regarding vertical services, by this same vote, the LPSC voted to adopt Ms. Dismukes' recommended rate of \$8.28 for all vertical features as set forth in the Staff's Post Hearing Brief. The LPSC determined that it is necessary to adopt the Stand Alone rates because the platform approach was rejected by the 8th Circuit. The Commission ordered the permanent, cost-based rates to replace the interim rates in BellSouth's SGAT and approved the rates for BellSouth's tariff. As noted above, BellSouth has incorporated into its SGAT the cost-based rates as determined by the LPSC in the Costing Docket.

**VII. BELLSOUTH'S OSS IS FULLY FUNCTIONAL AND ALLOWS CLECS TO PLACE, CONFIRM, AND IMPLEMENT ORDERS.**

Perhaps the single most hotly contested aspect of the LPSC's 271 Proceeding was the

sufficiency of BellSouth's Operational Support Systems, LENS, EDI and TAFI. To resolve the questions raised regarding these systems the LPSC conducted three separate technical conferences, and propounded approximately one hundred and fifteen (115) data requests concerning these systems.

The LPSC held a technical demonstration on August 13, 1997, at which the LPSC gave BellSouth the opportunity to demonstrate its operational support systems ("OSS"), and AT&T and MCI the opportunity to demonstrate what they perceived as problems with the OSS. Three of the Commissioners personally attended this OSS demonstration to gain first hand knowledge of the functionality of BellSouth's OSS systems. BellSouth demonstrated that its OSS systems were fully functional and allowed competitive local exchange carriers ("CLECs") to place, confirm, and implement orders to establish and provision local exchange service in Louisiana.

Following careful consideration and analysis, the LPSC concluded that the Operational Support Systems do, in fact, work and operate to allow potential competitors full nondiscriminatory access to the BellSouth system.

#### **VIII. IOWA UTILITIES BOARD V. FEDERAL COMMUNICATIONS COMMISSION.**

After the United States Court of Appeals for the Eighth Circuit issued its rulings in the *Iowa Utilities Board v Federal Communications Commission*<sup>18</sup> proceeding, the LPSC mandated that its costing docket and BellSouth's SGAT comply fully with the rulings. As shown above, the rates adopted by the LPSC in the Costing Docket, and BellSouth's SGAT, are in full compliance

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<sup>18</sup>*Iowa Utilities Board v Federal Communications Commission*, Case No. 96-3321, Eighth Circuit Court of Appeals.

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with these rulings.

**IX. THE LOUISIANA PUBLIC SERVICE COMMISSION IS PREPARED AND EQUIPPED TO ENFORCE EQUITABLE COMPETITIVE PRACTICES.**

As discussed throughout these Comments, the LPSC took an aggressive, progressive strategy to open the local loop to competitive entry. Toward this end, at its April 13, 1994 Open Session, the LPSC adopted a policy statement dealing with the development of rules and regulations to open the local exchange market to competitive entry.

**A. Procedural History of the Competition Docket**

In furtherance of the policy adopted by the LPSC, it formally opened Docket U-20883, Louisiana Public Service Commission, ex parte, *In re: The development of rules and regulations applicable to the entry and operations of and the providing of service by competitive and alternative access providers in the local intrastate and/or interexchange telecommunications markets in Louisiana* (the "Competition Docket").<sup>19</sup>

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<sup>19</sup> The following parties filed formal interventions in this docket: Paramount Wireless Communications Corp. (Paramount Wireless), Wireless One, Inc., Louisiana Cable Television Association (LCTA), AT&T Communications of the South Central States, Inc. (AT&T), Shreveport Cellular Telephone Company (Shreveport Cellular), Lafayette Cellular Telephone Company (Lafayette Cellular), Monroe Cellular Limited Partnership (Monroe Cellular), American Communication Services of Louisiana, Inc. (ACSI), MCI Telecommunications Corporation (MCI), East Ascension Telephone Company, Inc. (EATEL), BellSouth Telecommunications, Inc., d/b/a South Central Bell Telephone Company (SCB), The Council of the City of New Orleans, McCaw Cellular Communications, Inc. (McCaw Cellular), LDDS Metromedia Communications (LDDS), Teleport Communications Group Inc. (TCG), the Small Company Committee of the Louisiana Telephone Association (SCC), Sprint Communications Company L.P. (Sprint), Reserve Telephone Co. (Reserve Telephone), Centennial Beauregard Cellular Corp. (Centennial Cellular), Entergy Services, Inc., Radiofone, Inc. (Radiofone), Metropolitan Fiber Systems of New Orleans, Inc. (MFS), Cameron Telephone Company, BellSouth Mobility, Inc. (BSM), Global Tel\*Link, Inc. (Global), GNet Telecom, Inc. (GNet) and BRI, Inc. (BRI).

The LPSC held technical conferences in 1994 and 1995 where the parties presented issues to be considered in the Competition Docket, and reported on the status of competition in the local loop in Louisiana. At the conclusion of the technical conferences, all parties were given an opportunity to submit written comments and suggested proposed local competition regulations. The parties submitted proposed regulations.

On September 1, 1995, after analyzing and considering the written comments and suggested proposed regulations filed by each party, the LPSC Staff issued an initial draft of proposed regulations for competition in the local telecommunications market. The LPSC staff solicited written comments and stipulations to these proposed regulations from all parties, to which the parties replied.

In order to obtain additional input from the parties, in September 1995, a second notice of amendment of procedural schedule was issued. This procedural schedule provided that the LPSC would issue a second draft of the proposed regulations in October 1995, followed by the parties filing written stipulations to the proposed regulations. After considering each party's comments obtained from the conference, the Staff issued a second draft set of proposed regulations in October 1995. The parties filed comments and/or written stipulations to the second proposed regulations in October 1995. On October 24, 1995, the LPSC issued a rulemaking procedural schedule, establishing comment and reply comment periods to ensure that all parties had ample opportunity to comment on the proposed regulations.<sup>20</sup>

After considering each party's filed comments to the second proposed regulations, the Staff

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<sup>20</sup>On November 17, 1995, SCB filed an Objection to October 24, 1995 Revised Procedural Schedule. This objection was later withdrawn by SCB.



released a third draft of the proposed regulations on November 1, 1995. Following further consideration of all comments and reply comments filed by the parties, staff issued its final proposed regulations on January 18, 1996. The LPSC held a Public Hearing on these proposed regulations on February 13, 1996 to afford each party an opportunity to present oral arguments on how the Commission should modify the proposed regulations. At the conclusion of this hearing, all parties and the general public were invited to file proposed amendments to the proposed regulations. After reviewing and considering the extensive record developed in the Competition Docket, the LPSC adopted its Regulations for Competition in the Local Telecommunications Market by General Order, dated March 15, 1996.

**B. LPSC Local Competition Regulations Promote Competitive Entry into the Local Loop**

The LPSC Competition Regulations are consistent with the Act and the FCC regulations adopted thereunder. The purpose of the LPSC Competition Regulations is to foster the transition from monopoly to competitive local telecommunications markets in Louisiana. The LPSC imposed the Competition Regulations in order to encourage competitive entry, preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers while ensuring that the rates charged and services rendered by telecommunications services providers are just and reasonable.

The LPSC recognizes that, given current local telecommunications markets, competition in every segment of these markets will take time to develop. It is likely that the introduction of competitive services will occur asymmetrically with new entrants initially targeting high volume, heavily populated urban areas, and other selected high-profit areas, and that, therefore, the

benefits resulting from competition will be seen first in those areas. However, it is the policy of the LPSC that all Louisiana consumers should benefit from competition. Although a limited exemption is proposed for incumbent local exchange carriers with 100,000 access lines or less in Louisiana, the LPSC encourages competition throughout Louisiana.

The Competition Regulations are designed to ensure that Louisiana consumers benefit from competition. Louisiana consumers should benefit from competition in the local loop by having greater choices among telecommunications products, prices and providers. Through the development of effective competition, which promotes the accessibility of new and innovative services at non-discriminatory prices consumers can and are willing to pay and which results in wider deployment of existing services at competitive prices, the public interest will be promoted.

The LPSC Competition Regulations contain specific provisions requiring all competitive carriers to have number portability that ensures that an end-user customer of local telecommunications services, while at the same location, will be able to retain an existing telephone number without impairing the quality, reliability, or convenience of service when changing from one provider of local telecommunications services to another (Section 801). These provisions are consistent with the Act and the FCC regulations.

The LPSC Competition Regulations provide that competing networks shall be interconnected so that customers can seamlessly receive calls that originate on another carrier's network and place calls that terminate on another carrier's network without dialing extra digits, paying extra, or performing any other action out of the ordinary that is not required when dialing on his/her own carrier's network. The Regulations provide that competing telecommunications services providers

shall be interconnected with the ILECs in a manner that gives the TSPs seamless integration into, and use of local telephone company signaling and interoffice networks in a manner equivalent to that of the ILECs. Interconnection includes access to switches, databases, signaling systems and other facilities or information associated with originating and terminating communications (Section 901). These provisions are consistent with the Act and the FCC Regulations.

The Competition Regulations provide that all TSPs shall be able to purchase desired features, functions, capabilities and services promptly and on an unbundled and non-discriminatory basis from all other TSPs provisioning services in the State (Section 1001). These provisions are consistent with the Act and the FCC regulations. The Competition Regulations also contain resale provisions consistent with the Act and the FCC Regulations (Section 1101).

In addition, the Competition Regulations contain enforcement provisions that ensure that all TSPs, including the ILECs, comply with the mandates of number portability, interconnection, unbundling and resale so as to ensure that all competing carriers are able to offer service on the same footing as do the ILECs.

Since the Competition Regulations were initially adopted in March, 1996, they have been amended twice in order to comply with the rulings of the Eighth Circuit Court of Appeals and the FCC regulations promulgated under the Act.

**X. CONCLUSION.**

The LPSC supports BellSouth entry into the interLATA long distance market because consumers in Louisiana in both the local and long distance markets will benefit. As shown above, BellSouth has satisfied all specific statutory prerequisites to provide interexchange services in Louisiana, and such service would promote the public interest. Accordingly, BellSouth's application should be granted.

Respectfully submitted,

The Louisiana Public Service Commission



LAWRENCE ST. BLANC  
EXECUTIVE SECRETARY